

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA)
Plaintiff,)
v.) No. 4:19CR856 RLW
JESSICA MARIE POWELL,)
Defendant.)

DEFENDANT'S MEMORANDUM
IN SUPPORT OF A NON-CUSTODIAL SENTENCE

Comes now Defendant, JESSICA POWELL through attorney, Michelle Monahan, Assistant Federal Public Defender, and submits the following 3553(a) factors in support of a non-custodial sentence:

1. Ms. Powell has been clean of controlled substances and sober for three years and six months. She has battled a severe addiction to opiates since 2012. Specifically, Ms. Powell, a registered nurse with two degrees, committed her last act of stealing pain killers from her employer, DaVita Hospital on February 12, 2018 and has been clean and sober since February 14, 2018. Ms. Powell admitted herself into the most intensive drug treatment program she could find and afford in the United States. She addressed her family's unacceptance of her natural sexuality, addressed her depression due to their rejection, faced the federal charges before the Court, and never returned to her destructive illegal behavior.
2. By self-admission, Ms. Powell stole opiates in the form of Dilaudid and Percocet from February 2017 to February 2018 from her employer by way of falsifying doses retrieved from a hospital Pyxis MedStation automated dispense machine. The DEA investigation confirmed that Ms.

Powell would remove unapproved doses from the machine for patients who either did not have an order for the medication or would remove more than the doctor's order for medication. It should be noted that Ms. Powell did not deny patients their necessary pain medication. An Indictment for these offenses was sought and filed in October 2019. Ms. Powell, by then in a sober living facility in Tempe Arizona was informed of the charges, surrendered herself and returned to the State of Missouri to take full responsibility for her illegal actions.

3. On October 15, 2019, Magistrate Judge Frederick Buckles ordered Ms. Powell released from custody under the supervision of the Pretrial Services Office. Ms. Powell has remained violation free since that date. Her strict conditions include: complying with any psychiatric or substance abuse treatment as directed by her supervising officer, maintain full-time employment, not travel outside her approved residential area without Court permission, not use narcotics or alcohol, submit to random urinalysis testing as directed, not possess a firearm, surrender her passport and report to her pretrial officer as directed.
4. Ms. Powell maintains her hard earned sobriety by living within the guidelines of her long term treatment provider, attending narcotics anonymous meetings and after a year of sobriety in 2019, serves as a substance abuse sponsor. In February 2018, Ms. Powell researched and admitted herself to the Valley Hope 20 day inpatient treatment program in Atchinson, Kansas. There, she detoxed, had excellent group and individual counseling attendance, contributed to groups and completed her assignments. Knowing how severe her addiction had become she sought out a highly respected long term treatment program in Tempe, Arizona.
5. Ms. Powell saw the long term treatment community of Carla Vista in Tempe, Arizona not just as another treatment program but a place to learn a new way of life. The program allowed for long term sober living, services for addicts and also provided her the opportunity for mental health

treatment. This treatment allowed her to accept the sexuality she was born with and be at peace with the accomplished, educated and well respected woman she had become. This was all the more difficult a task given her family's rejection of her for not complying with their version of the "normal" path a daughter should follow.

Ms. Powell made a life in Tempe, Arizona. She completed an eight week outpatient treatment program. She made a decision to further strengthen her commitment to a sober and healthy life by moving into their sober living community. She continued achieving her goals until October 2019 when she was notified of the federal indictment. She returned to Missouri solely to accept responsibility for this offense.

6. Ms. Powell suffers from sciatic back pain even after multiple surgeries to correct a displaced disc and bone separation in her spine. While she was introduced to heroin in 2011 and continued to occasionally use, the opiates prescribed after her surgeries in 2014 and 2015 became a daily addiction. This addiction lead to the instant offenses before the Court. While Ms. Powell remains in pain, she has not taken prescription medication for three years and six months and does not wish to take prescription medication.
7. Ms. Powell's addiction is directly linked to her diagnosed depression and anxiety first identified in 2005. She was 18 and living with parents and a community rejecting her sexuality. She had low self-worth, high self-loathing and no coping tools to help her understand and address her mental illness. Since that time, she has become a confident, though humble, strong model for others facing similar situations. Since Ms. Powell's return to Missouri, she initiated therapy with her parents and they have created a more healthy relationship.
8. Ms. Powell worked her way from the training program at Menards Department Store in January of 2020 to her present position as a full-time retail manager. Her employer confirmed she is a

valued employee and will only move up in their company should she choose to stay. She lives in a lovely home with a supportive significant other.

9. The sentence the Court will impose will be the first for Ms. Powel, her first conviction for any offense in her life. Counsel presents Ms. Powell as the strongest possible candidate for successful completion of a probation term.
10. Ms. Powell's response to this offense and the improvements she has made to not just herself but her community over the past three years and six months, show respect for the law, a clear deterrent effect and a sentence to a term of one year of probation is sufficient to meet the statutory sentencing requirements.

Counsel urges the Court to sentence Ms. Powell to a term of probation. The above matter will come before the Court on August 31, 2021 for sentencing.

Respectfully submitted,

/s/Michelle L. Monahan
MICHELLE L. MONAHAN
Michelle_Monahan@fd.org
1010 Market Street, Suite 200
St. Louis, Missouri 63101
Telephone: (314) 241-1255
Fax: (314) 421-3177
E-mail:

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on , August 27, 2021, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon , Dorothy McMurtry Assistant United States Attorney.

/s/ Michelle L. Monahan
Michelle L. Monahan
Attorney for Defendant Durham